

REMARKS

Claims 1-11 are currently pending in the application. By this amendment, claims 1, 3, and 4 are amended and claims 5-11 are added for the Examiner's consideration. The above amendments do not add new matter to the application and are fully supported by the specification. For example, support for the amendments is provided in the claims as originally presented and in Figures 1-3. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

Information Disclosure Statement

Applicants note that the Examiner has initialed the documents listed on the PTO-1449 form submitted with the Information Disclosure Statement (IDS) of September 26, 2005. Applicants note, however, that the Examiner has not signed and dated the bottom of the PTO-1449 form. Accordingly, the Examiner is requested to return a signed and dated copy of the PTO-1449 form with the next official communication.

Moreover, it is noted that the Examiner has not considered the documents listed on the IDS submitted October 31, 2003, and the IDS submitted February 9, 2004. Accordingly, the Examiner is requested to consider these documents and to indicate such consideration by returning a signed and initialed copy of the PTO-1449 forms with the next official communication.

35 U.S.C. §102 Rejection

Claims 1-4 were rejected under 35 U.S.C. §102(b) for being anticipated by U. S. Patent No. 6,006,486 issued to Moriau et al. ("Moriau"). This rejection is respectfully traversed.

As a preliminary matter, it is noted that the Moriau reference (*i.e.*, U.S. Pat. No. 6,006,486) is not listed on any of Applicants' submitted PTO-1449 forms, and is not listed on the PTO-892 that was included with the outstanding Office Action.

Accordingly, Applicants respectfully request that the Examiner cite the Moriau reference on a PTO-892 in the next official communication.

To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. MPEP §2131.

The Examiner asserts that Moriau teaches or suggests all of the features of the claimed invention. Applicants respectfully disagree and submit that Moriau does not show each and every element of the claims, and therefore does not anticipate the claims.

The present invention is related to a floor panel. Claim 1 recites, in pertinent part,

... further comprising form-fitting elements for locking in the vertical direction (V) with a further panel formed on a second side edge running at an angle to the first side edge, wherein the form-fitting elements are spaced apart from one another in the transverse direction (Q) and in the vertical direction (V) on two spaced-apart, essentially vertically oriented walls ...

These features are not shown by Moriau.

The Examiner is of the opinion that Moriau discloses these features in lines 23-25 of column 3 and lines 36-39 of column 6. Applicants respectfully disagree.

Contrary to the Examiner's assertions, Moriau shows a floor panel 1 and discloses that sides 26-27, which are at a right angle to the sides 2-3, may be provided with coupling parts 28-29 which have a locking means 30 (col. 6, lines 36-39; Figs. 5-7). Each of the embodiments includes a tongue and a groove locking mechanism, which prevents vertical displacement of the panels. The tongue and groove are clearly not form-fitting elements spaced apart from one another in the transverse direction (Q) and in the vertical direction (V) on two spaced-apart, essentially vertically oriented walls. Additionally, there are no other locking mechanisms which prevent vertical displacement.

Instead Moriau shows, for example, a panel 1 in Figure 5 according to a cross section along line V-V in Figure 1. The panels include a second side 26 that has a tongue 31 for locking in the vertical direction, as well as a locking means 30 (i.e., downward extending protrusion) which extends from the tongue for locking the panels in the horizontal direction. The locking means 30 is designed to lock the panels only in the horizontal direction. Above and below the tongue are substantially vertically oriented walls. For example, above the tongue is a wall with a slight ledge. This feature, however, does not have any locking capabilities.

Contrary to the Examiner's assertion, the second side 26 does not have more than one form-fitting element for locking in the vertical direction with a further panel, much less, plural form-fitting elements for locking in the vertical direction. Nor does it disclose more than one form-fitting element that are spaced apart from one another in the transverse direction and vertical direction on two spaced-apart essentially vertically oriented walls, as recited in claim 1. Instead, Moriau discloses a tongue and groove mechanism for locking in the vertical direction.

It is noted that Moriau also teaches that the shapes of coupling parts 4-5 shown in Figures 22 to 25 can be used for the coupling parts 28-29 of the short sides of the panels (col. 11, lines 24-26). Applicants submit, however, that the embodiment shown in Figures 22-25 does not show more than one form-fitting element for locking in the vertical direction with a further panel formed on the second side edge. Figures 22-25 depict a panel 1 in which a second side 2 has tongue 9 for locking in the vertical direction and element 6 for locking in the transverse direction. But the second side clearly does not have more than one form-fitting element for locking in the vertical direction, nor does it include one form-fitting element that are spaced apart from one another in the transverse direction and vertical direction on two spaced-apart essentially vertically oriented walls. Thus, Moriau does not show each and every element of the claimed invention.

Furthermore, dependent claims 2-4 recite additional features which are not disclosed by Moriau. For example, Moriau does not show that a radius of curvature of the contour of the underside of the tongue is constant over at least 90 degrees, as recited in claim 2. In fact, it is clearly seen in Figure 2 of Moriau that the radius of curvature R1 of the underside 12 of the tongue is not constant over at least 90 degrees.

Accordingly, Applicants respectfully request that the rejection over claims 1-4 be withdrawn.

Other Matters

The specification has been amended to correct typographical errors that have come to Applicants' attention.

Claims 1, 3, and 4 have been amended strictly to ensure closer compliance with U.S. patent practice and not for reasons related to patentability or for reasons related to distinguishing the invention over the applied prior art. These amendments are not narrowing amendments. Accordingly, Applicants submit that no estoppel should apply to any feature recited in any of the so amended claims.

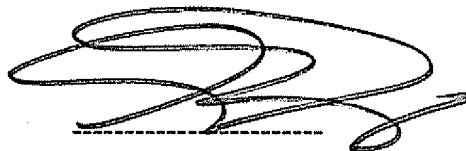
Added Claims

New claims 5-11 further define Applicants' invention and are believed to be patentably distinct from the applied art of Moriau and in condition for allowance.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,
Thomas GRAFENAUER

A handwritten signature in black ink, appearing to read 'Andrew M. Calderon', written over a horizontal dashed line.

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